

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOHNNY WILLIAM JOHNSON, III,

Petitioner,

v.

WARDEN GITTERE, et al.,

Respondents.

Case No. 3:18-cv-00496-LRH-WGC

ORDER

This is a closed habeas corpus action under 28 U.S.C. § 2254. On April 16, 2020, the court had found that petitioner Johnny William Johnson had not exhausted his state-court remedies for all of his grounds for relief. ECF No. 32. The court directed Johnson to decide what he wanted to do with those grounds, and the court noted that it made no guarantees about the timeliness of a subsequently commenced federal habeas corpus action if he decided to voluntarily dismiss the action. Id. at 4-5 Johnson decided to voluntarily dismiss the action. ECF No. 33. On May 11, 2020, the court dismissed the action, again noting that it made no guarantees about the timeliness of a subsequently commenced federal habeas corpus action. ECF No. 35.


On October 12, 2021, Johnson filed a letter, docketed as a motion, asking for additional time to reopen this action so he can collect and file the proper paperwork. ECF No. 37. Johnson stated incorrectly that the court had stayed this action. However, the court had not stayed this action. The court had dismissed this action, without prejudice to filing a new habeas corpus

1 petition in a new action, and the court had warned Johnson twice that he might have issues with
2 timeliness by dismissing the action. The court told Johnson that he could not recharacterize the
3 dismissal of this action as a stay of this action. The court denied the motion because there was no
4 deadline that the court could extend. The court also told Johnson for the third time that he had
5 dismissed the action without prejudice to commencing a new habeas corpus action, not a
6 reopening of this action, and the court made no statement about the timeliness of that new habeas
7 corpus action. ECF No. 38.

8 Johnson now has filed another letter, docketed as a motion, asking for additional time to
9 reopen this action so he can collect and file the proper paperwork. ECF No. 39. Johnson dated
10 the letter November 2, 2021, the court entered its prior order on November 3, 2021, and the court
11 received Johnson's letter on November 29, 2021. Although it is unusual for a letter to take 27
12 days in the mail, the possibility remains that Johnson's letter and this court's prior order crossed in
13 the mail. Nonetheless, no circumstances have changed, and the court's reasons for denying
14 Johnson's earlier motion apply with equal force to Johnson's current motion.

15 IT THEREFORE IS ORDERED that petitioner's motion for extension of time (ECF No.
16 39) is **DENIED**.

17 DATED: December 2, 2021.

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19 LARRY R. HICKS
20 United States District Judge
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